

S.B.CIVIL WRIT PETITION NO.3052/2003

Phoosa Ram
V.
State of Rajasthan & Ors.

DATE OF ORDER :: 3rd July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Vinay Jain, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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The memorandum under Rule 17 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules was served upon the petitioner alleging violation of Rule 12 of the Rajasthan Land Revenue (Land Record) Rules, 1957. The disciplinary authority in statement of allegation stated that on 12.9.2000 at the time of sudden inspection of patwar circle the petitioner was not found present at Head Quarter and the Patwar Bhawan was found locked.

A reply to the memorandum dated 14/29.9.2000 was submitted by the petitioner stating therein that being a patwari he is required to go for various sites for the purpose of inspection and on 12.9.2000 he was busy with the work of small savings. The statement of the petitioner was substantiated by some of the villagers and Sarpanch of the Gram Panchayat, Ajeetpura by certifying that the petitioner on 12.9.2000 was busy in small saving work. The disciplinary authority by order dated 20.12.2000 after affording an opportunity of personal hearing to the

petitioner held that the petitioner despite instructions vide the circular dated 8.9.2000 was not present at patwar circle Head Quarter on Monday and Tuesday, accordingly a penalty of stoppage of two annual grade increments without cumulative effect was imposed. Being aggrieved by the order dated 20.12.2000 the petitioner preferred an appeal under Rule 23 of the Rules of 1958 before the Divisional Commissioner, Jodhpur and that too came to be rejected by order dated 3.12.2001. Being aggrieved by the order passed by the disciplinary authority and the appellate authority affirming the order of the disciplinary authority, this petition for writ is preferred.

while assailing validity and propriety of the orders aforesaid it is contended by learned counsel for the petitioner that the disciplinary authority found the petitioner guilty for not remaining present on patwar Head Quarter on Monday and Tuesday as required under the circular dated 8.9.2000 which in fact was not issued to the petitioner till the date the sudden inspection was made. A photostat copy of the circular dated 8.9.2000 is placed on record as Anx.7 from perusal of which it reveals that the circular aforesaid was received in the office of Naib Tehsildar, Ahore on 22.11.2000 i.e quite later to 12.9.2000, the day on which inspection was made. The fact that circular dated 8.9.2000 was received by Naib Tehsildar, Ahore on 22.11.2000 proves it well that the

petitioner was not aware about the circular dated 8.9.2000 being the same not made available to his office. The disciplinary authority while holding the petitioner guilty for not acting in accordance with the instructions dated 8.9.2000 failed to appreciate the fact that it was impossible for the petitioner to be aware about such instructions being not made available to his office. The appellate authority also failed to consider this aspect of the matter. In view of it I am of the considered opinion that the foundation to held the petitioner guilty for not acting in accordance with the instructions given under the circular dated 8.9.2000 is non existent.

The writ petition, therefore, deserves acceptance. The same is accordingly allowed. The order passed by the disciplinary authority i.e. the District Collector (Land Records), Jalore and the order dated 3.12.2001 is quashed.

No order to cost.

(GOVIND MATHUR),J.

kkm/ps.